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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,204	09/08/2000	Charles A. Eldering	T723-00	3450
27832	7590	12/29/2005	EXAMINER	
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME			RAMAN, USHA	
6206 KELLERS CHURCH ROAD			ART UNIT	
PIPERSVILLE, PA 18947			PAPER NUMBER	

2617

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/658,204	ELDERING, CHARLES A.	
	Examiner	Art Unit	
	Usha Raman	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-29, 34, 53, 61-63 and 70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-29, 34, 53, 61-63 and 70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9-22-05</u>   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Arguments***

1. Applicant's arguments with respect to claims 70 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 70, 25-29, 34, 53, 61-63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 70 recites the limitation (e) "downloading a first customized EPG to a subscriber interface, wherein the downloading can be actuated by the subscriber". The specification discloses that customized EPG are transmitted to the subscriber device, however nothing in the specification indicates that the subscriber actuates the download of the customized EPG to the subscriber interface. See disclosure page 12, lines 10-23, page 17, lines 3-6, lines 16-21, page 18, lines 17-19.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 70, 25, 27-28, 53, 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US Pre Grant Pub. 2003/0020744) in view of Macrae (US Pre Grant Pub. 2003/0208756).

In regards to claim 70, Ellis discloses a method of delivering targeted advertisements in a EPG (see Ellis: [0110]), the method comprising:

- (a) characterizing one or more subscribers having an EPG (viewer preference profile and viewer history, see Ellis: [0045])
- (b) characterizing a plurality of advertisements to be transmitted to the subscribers (see Ellis: [0110])
- (c) creating at least one set of targeted advertisements by correlating the subscribers and the advertisements based on the subscriber characterizations and the advertisement characterizations (see Ellis: [0110]);
- (d) creating at a subscriber node (program guides are downloaded and customized at subscriber equipment, see Ellis: [0046], [0084]), customized EPG based on the characterization of one or more subscribers (see Ellis: [0111]), wherein the subscribers have access to at least a portion of data used for the creating of the respective customized EPG (see Ellis: [0089]-[0091], [0114]), and wherein customized EPG is associated with one of the at least sets of targeted advertisements corresponding to the subscriber characterization on which that EPG is based (see Ellis: [0110]);

- (e) downloading a first customized EPG to a subscriber interface, wherein the downloading can be actuated by the subscriber (downloading and access program guide is user actuated, see Ellis: [0044], [0050], [0064]);
- (f) transmitting to the subscriber the ads in the at least one set associated with the first customized EPG (see [0110]);
- (g) detecting a change in the subscriber characterization (i.e. recording user history; see Ellis: [0108]-[0109]);
- (h) Downloading a second customized EPG to the subscriber interface in response to the detection of step (g); (customization changes according to changing viewer preferences/history, see Ellis: [0010], [0110], [0111], [0116]) and
- (i) transmitting to the subscriber the ads in the at least one set associated with the second customized EPG (see Ellis: [0116]).

Ellis lacks the step of transmitting a plurality of customized EPGs

Macrae teaches an example of presenting advertisements inserts in program guide screens that are made of "hard pages". Macrae, as an example, discloses that a "hard page" can be defined by a different sort category. For example, a "hard page" of the sports category would have different panel ads from the hard page of the children's category. Note paragraphs 218-219 in page 12 and paragraph 281 in page 15 of Macrae.

It would have been obvious to modify system with Macrae's teachings so that a when a program guide is transmitted to a subscriber premises, different panel ads corresponding to various categories are inserted in the different "hard pages" of a

program guide, so that a user receives advertisements related to the category of the program guide they are tuned to. The motivation for such a modification would be to provide targeted advertisements to a viewer based on viewer interests as well as the current category of program guide they are tuned to. For example, a viewer whose profile indicates interest in sports as well as children's programs will receive sports-related advertisements when selecting the sports category hard page.

In regards to claim 25, the subscriber interface is a set top box (28). See Ellis: figure 3.

In regards to claim 27 the subscriber characterization information are based on demographics and program viewed from databases. Note Ellis: [0126].

In regards to claim 28, the demographics information comprise geographic location, etc. and a real-estate information can be characterized by geographic location. Therefore the customer characterization of Hendricks includes a real-estate information. See Ellis: [0126].

In regards to claim 53, the modified system discloses that subscribers are grouped into a plurality of groups characterized by common subscriber characteristics (demographics) and receives particular targeted advertisements for that group. Note Ellis: [0107]. Therefore it would have been obvious to send a group of viewers, EPG with targeted advertisements that correspond to demographic factors of that group.

In regards to claim 61, the subscriber characterization is based on subscriber interactions with EPG. See [0107] in Ellis.

In regards to claim 62, the subscriber characterization is accessed through a television terminal that connects to a program guide server. See figure 2a, figure 3 and [0046] in Ellis.

In regard to claim 63, the subscriber characterization is accessed through the Internet. See [0042] in Ellis.

6. Claims 26, 29-32 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US Pre Grant Pub. 2003/0020744) in view of Macrae (US Pre Grant Pub. 2003/0208756) further in view of Hendricks et al. (US Pre Grant Pub. 2003/0145323)

In regards to claims 29-32, the modified system is silent about characterizing advertisements with vectors.

Hendricks discloses the step of characterizing advertisement with vectors in order to view distribution of advertisements among different target markets. Note table H and description in paragraphs 325-326 in page 20 of Hendricks.

It would have been obvious to one of ordinary skill in the art to modify the system in view of Hendricks by characterizing advertisement with vectors, in order to viewer distribution of advertisement among different target markets.

In further regards to claim 30, the modified system discloses that the advertisement vectors include a plurality of targeting categories (such as area of dominant influence). Note paragraph 26 in page 2 and table H and paragraphs 325-326 in page 20 of Hendricks.

In further regards to claim 31, the advertisement vectors includes weighting schemes for certain targeting factors. Note paragraph 266 in page 22 and paragraph 463 in page 39 of Hendricks.

In regards to claim 32, the modified system discloses that advertisements are characterized by vectors containing a probabilistic distribution value. As an example, Hendricks shows that a sum of squares algorithm can be used for correlating the different groups (vectors) and prioritizing the groups accordingly for the targeted advertisements. Note paragraphs 461-464 in page 39 of Hendricks. The modified system does not disclose using weighted average of the categories for the advertisement vectors. Official notice is taken that weighted average and sum of squares are well known statistical models used for estimating probability of a particular event. Therefore it would have been obvious to one of ordinary skill to use a weighted average of the categories for prioritizing the advertisement vectors due to the simplistic nature of the weighted average model.

In regards to claim 34, 35, Ellis does not disclose the step of determining pricing scheme to be presented to the advertisers for placement of ads in EPG.

Hendricks discloses the step of determining a pricing scheme by the operations center for selling airtime to advertisers for placement of advertisement based on correlation results. Note paragraphs 151-161 in page 11 of Hendricks.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system by using a pricing scheme as taught by Hendricks, for

charging advertisers for placement of ads in EPG. The motivation is to generate revenue at the head end for presenting advertisers with targeted customers.

In regards to claim 36, the modified system silent about charging advertisers a price directly proportional to the correlation results. Official notice is taken that broadcaster charges an advertiser amount proportional to the number of audience it reaches. An increased number of viewers are likely to generate increased revenue for the advertisers from sales due to advertising their products to a group of interested viewers. Therefore it would have been obvious to further modify the system so that the advertisement sales module charges an advertiser proportional to the correlation results.

In regards to claim 26 the system is silent on whether or not the subscriber interface is a cable ready television having a unique identification.

Hendricks discloses that the television terminal may be a satellite receiver or incorporated into circuitry of the television itself, and further states that individual television terminals have a television terminal address that allow for them to be uniquely identified by an operation center. Note Hendricks: [0091], [0025].

It would have been obvious to one of ordinary skill in the art to modify the system so that the subscriber equipment comprises cable ready television so that each subscriber equipment can be uniquely addressable by the head end.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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